

Filed for intro on 02/01/95
Senate Bill _____
By _____

House Bill No.HB0132
By Herron

AN ACT to amend Tennessee Code Annotated, Title 55, Chapter 10, Part 6, relative to the "Motor Vehicle Habitual Offenders Act".

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 55, Chapter 10, Part 6, is amended by adding the following new section:

Section 55-10-618.

(a) As an alternative to the procedure set out in Tennessee Code Annotated, Sections 601-617 of this part for declaring a person to be a motor vehicle habitual offender, the district attorney general may use the procedure set out in this section provided at least one (1) of the convictions required by Section 55-10-603 of this part occurs on or after July 1, 1995.

(b) If the district attorney general believes that a defendant should be sentenced as a motor vehicle habitual offender in addition to the sentence for the habitual offender triggering offense, he shall file a statement thereof with the court and defense counsel not less than ten (10) days before trial or acceptance of a guilty plea; provided, that notice may be waived by the defendant in writing

with the consent of the district attorney general and the court accepting the plea. Such statement, which shall not be made known to the jury determining the guilt or innocence of the defendant on the primary offense, must set forth the nature of the prior applicable convictions, the dates of the convictions and the identity of the courts of the convictions. The original or certified copy of the court record of any prior conviction, bearing the same name as that by which the defendant is charged in the primary offense, is prima facie evidence that the defendant named therein is the same as the defendant before the court, and is prima facie evidence of the facts set out therein.

(c) If the court finds that the defendant meets the criteria of Tennessee Code Annotated, Section 55-10-603(2) the court shall declare the defendant to be a motor vehicle habitual offender and, in addition to the sentence imposed for the habitual offender triggering offense, shall sentence the defendant as provided in Tennessee Code Annotated, Sections 55-10-613 and 55-10-615.

(d) The provisions of Tennessee Code Annotated, Section 55-10-616, shall apply to a person sentenced as a motor vehicle habitual offender pursuant to this section.

(e) A defendant who has been sentenced as a motor vehicle habitual offender pursuant to this section may appeal such finding within the same time and in the same manner as other appeals in criminal cases. If the defendant appeals any part of the habitual offender triggering offense, an appeal of a finding that such defendant is a motor vehicle habitual offender shall be made a part of and consolidated with such appeal.

SECTION 2. This act shall take effect July 1, 1995, the public welfare requiring it.

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